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Quantification and the History of Crime in Early Modern England: Problems and Results

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Abstract: The essay discusses some of the statistical and methodological problems in criminal justice historical research, especially in regard to the early modern period. It also reviews many of the recent community and national studies in the historiography of criminality in early modern Britain and it attempts to describe the time-series trends in criminality that emerge from these studies. Finally it argues that a modernisation theory does not appear to fit the criminal trends in early modern Britain.

In 1670 Sir William Petty, one of the founding fathers of statistical sociology, called for annual reports on 'the number of corporal sufferings and persons imprisoned for crimes, to know the measure of vice and sin in the nation' (1). Unfortunately for historians of crime, this useful suggestion was ignored, and it was not until the early nineteenth century that criminal statistics for England were published on an annual basis. The educated public almost immediately became accustomed to discussing the problems of law and order in statistical terms: indeed, statistical evidence of rising crime rates helped fuel social fears among persons of property in the decades after 1815 (2). The interest in criminal statistics has persisted, and it was perhaps inevitable that those historians who have, over the last twenty years, turned their attention to the history of crime, should have put the counting of offences close to the top of their research agenda. Those working on the nineteenth century, when most European states were collecting and publishing criminal statistics, have produced some admirable work based on quantification: one thinks of Howard Zehr's bold attempts at a comparative study, and V.A.C. Gatrell's meticulous and penetrating work on English criminal statistics between 1834 and 1914 (3). Historians working on earlier periods, although unable to match such feats of cliometricism, have also attempted to follow the path of quantification, and,

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for England, a number of studies have appeared which depend to a greater or lesser extent on counting cases (4). As most of their authors have been aware, however, these studies have done as much to demonstrate the difficulties inherent in a statistical approach to early modern crime as they have done to prove its usefulness.

The notion that one of the things that we do with crime is count it and argue about the meanings of the results of that operation is probably now so firmly embedded in our culture that it was inevitable that historians of crime should, from the start, feel an urge to quantify. Yet from the start some historians were extremely sceptical of the value of criminal statistics as an aid to understanding crime in the past. Thus J.J. Tobias, author of an early study on crime and industrialisation in the nineteenth century, declared bluntly that 'criminal statistics have little to tell us about crime and criminals' (5). Even when criminal statistics were first being constructed, some doubted their value: one contemporary observer declared that to trust too much in criminal statistics was to depend on 'accurate calculation upon subjects that do not admit of any calculation at all...how indeed can it be imagined that men who have the strongest of all motives for eluding observation, can be so open to it as to have their numbers as accurately defined as those of a regiment of foot?' (6). As historians of crime in early modern England burrowed deeper into the archives, the more perceptive of them came to realise the gap between the fruits of their efforts at quantification and what our nineteenth-century observer termed 'accurate calculation'.

Yet it is worth pondering further on why historians of crime have put so much weight on quantification. Of course, as I have suggested, we are culturally attuned to the idea that crime should be counted, while the limited nature of one of the major documentary sources for English crime, indictments, dictates quantification, as counting indictments is one of the few things that can be done with them. Obviously, given that the main function of the historian has traditionally been to analyse change over time, the delineation of fluctuations in levels and types of offences has its appeal. But historians might be tempted to use criminal statistics, like other long runs of statistical evidence, to justify preconceived models of historical change. Writing in 1980, Eric Monkkonen suggested a number of such models: he described them as 'the evolutionary perfectibility scheme, the modernization hypothesis, the urbanization thesis, the industrialization thesis, and the community to society thesis (Tönnies' familiar Gemeinschaft to Gesellschaft notion)' (7). Obviously several of these models are inappropriate to the history of English crime before 1800, but, even allowing for this, scholars working on the subject have been distrustful of grand theory, and of linking their findings of models of macro-historical change. Even the Marxism of Edward Thompson, Douglas Hay, and their

associates, which stands out as a refreshing exception to this generalisation, has been concerned with the connections between law and class relations in limited periods rather than with long-term explanation: the exact role of poachers on Cannock Chase in the transition from feudalism to capitalism remains unclear (8). In their discussion of what the statistics relating to crime in the past that they have constructed mean, historians of English crime have been generally willing to evaluate their findings objectively, and the models of Marx, Weber, or those derived from modernization theory have been little in evidence (9). This, a reflection of the deeper problem that the British historical tradition has with social theory, has created a certain shyness about discussing problems of long-term change: it has, conversely, had the beneficial result of preventing historians from becoming trapped in ideological cul de sacs.

One of the most common themes among historians working on crime in England before 1800 has been the problems involved in understanding how criminal charges were generated in a society without a professional police force. The prosecution of felony, in particular, was essentially dependent on the willingness of the victim to take a case to law. Homicide was an exception, as the investigation of suspicious deaths was one of the duties of a royal official, the coroner. For most other offences, notably larceny, burglary, and assault, prosecution depended upon the person offended against bringing the crime (and, indeed, the criminal) to the attention of the authorities, and then being willing to attend court and go through a trial. This meant, of course, that those with the wealth to bear the costs of prosecution, and the ability to find the time to leave their business or employment to attend court, were more likely to prosecute. Research by John Beattie and others has revealed that, in the eighteenth century, prosecutors at the assizes or quarter sessions did include a number of labourers and poor craftsmen: nevertheless, the ranks of the prosecutors were filled disproportionately by persons of moderate property and above. Even among these groups, it is probable that in many instances (notably thefts by the local, resident poor) formal indictments would only be brought when patience had run out after a series of petty offences and attempts to remedy them by informal warnings. This tendency is demonstrated most vividly in witchcraft prosecutions, when witnesses would allude not only to the immediate incident which had prompted prosecution, but also to events which had occurred many years before. As Douglas Hay has reminded us, an indictment was a distant reflection of many decisions by many different actors (10). Those counting indictments should bear this point in mind.

Hay's contention is afforded further support from the evidence, scattered among court records, diaries, and other documentation, of the use of informal controls and sanctions being used against offenders rather than

formal prosecution. Such evidence, usually emerging in the form of the isolated anecdote, defies quantification: yet, taken in its totality, it points to the existence of a formidable array of sanctions which a community or an individual might bring against offenders as alternatives to court action. Petty thieves might simply be forced to return the stolen goods or pay their victims compensation in cash or kind. Pilfering employees or servants could be dismissed. The traditional powers of landlords might be invoked to control disorderly tenants. The new potential for control offered by the poor law might be invoked to help control the disorderly poor. The marginalized criminal elements in the parish might simply be ostracised. To these informal sanctions were added a number of formal ones which served to prevent the offender from being prosecuted in a court. By the late seventeenth century justices of the peace had accrued formidable powers of summary conviction, although few records of their summary jurisdiction survive until a considerably later period. One of their powers was to send petty offenders to the house of correction for a spell, and justices' notebooks make it clear that these powers were used, notably against petty thieves. Perhaps the most common official alternative to prosecution, however, was binding over to keep the peace or to be of good behaviour. This aspect of the work of the judicial machine awaits detailed investigation. Some indication of its importance, however, can be deduced from the fact that, on surviving evidence, bindings over to keep the peace or to be of good behaviour taken by Essex J.P.s between 1620 and 1680 exceeded indictments for assault at the quarter sessions by a ratio of three to one (11). Indeed, there were so many alternatives to prosecution that one is forced to speculate that those persons named on the indictments that historians have been so eager to count formed a selected sample of offenders, and may well have been atypical (12).

Further complications for the would-be quantifier of crime in early modern England rest in the presence in that country, as in most contemporary societies, of a multiplicity of courts. Historians have tended to focus their attention on the serious offences tried at the assizes and, to a lesser extent, the quarter sessions. Yet crime (if we accept a broad definition of that term) might come before a number of other tribunals. Many borough towns had the right of gaol delivery, and were trying felony well into the seventeenth century. Local manorial courts, despite a general decline, were still in some localities active in prosecuting petty crime. The ecclesiastical courts, certainly up to 1642, were investigating religious and moral offences. Other crimes came to the King's Bench and, up to 1640, Star Chamber at Westminster (13). To argue that a run of figures drawn from the archives of one court represents crime statistics is, therefore, dangerous. The problem is illustrated neatly from an investigation of what was admittedly probably an unusually active manorial court leet, that of Prescott in Lan-

cashire. Twenty-three inhabitants of the manor were tried for assault at the Lancashire quarter sessions between 1615 and 1660. Over the same period, 1,252 presentments for assault and analogous offences against Prescott inhabitants were made at the leet (14). Deducing much about levels of violence from Lancashire quarter sessions records would, therefore, be a rather futile exercise.

Indeed, additional problems are created by the very nature of court records. In the absence of national statistics, historians of crime for periods before the nineteenth century have had to create their statistics through the analysis of court archives. That such archives only exist for a limited number of counties is bad enough. Equally vexing is the tendency for those which do survive to exist only in a broken series: over the sixteenth and seventeenth centuries, for example, nearly a third of the rolls of the Home Circuit of the assizes, a source much used by historians, are missing. This dictates that the historian must be scrupulous in setting out the gaps in the data from which he or she argues, while the reader must remain alert to the probability that the totals for criminal prosecutions for a given period are likely to be based on incomplete surviving documentation.

The difficulties are demonstrated in the work of a skilful and scrupulous historian, John Beattie, in his study of crime and the courts in Surrey and Sussex between 1660 and 1800. Over that period, he informs us, less than a hundred years enjoyed complete survival of assize and quarter sessions records. His main concern, and the main basis for his argument, however, is with sixty-one years' worth of assize and quarter sessions records from Surrey, drawn unevenly from his overall period. To this data, which he terms his 'Sample', he adds a count of indictments from the other years for which he has complete documentation, the two together being termed the indictment 'Count'. Because of the low level of homicide prosecutions, he also constructed a separate file, the 'Homicide Count', which comprehends all homicide cases in the ninety-five years of complete documentation. Hence, as far as their statistical basis is concerned, Beattie's arguments are perforce based on samples of evidence from sixty-one or ninety-five years within a period of a hundred and forty (15). Sustaining arguments from this type of evidence, quite apart from the problem of maintaining belief in the typicality of the evidence which does survive, places tremendous strains upon the historian's powers of clarity of expression, and on the reader's powers of concentration.

Even those indictments which do survive are sources which must be treated with extreme caution. This is not the place to go deeply into the technicalities of early modern court documents, but we must remind ourselves that the early modern indictment is a source which is, in many respects, potentially misleading. In theory the indictment should have been a legally watertight document, giving accurate factual evidence about

the criminal charge it recorded. In fact, as J.S. Cockburn has demonstrated (16), the data given indictments, perhaps most seriously for the period c. 1580-1625, is suspect: what was regarded as 'legally sufficient' by the judges and clerical staff of the period generated documentation which is of dubious value to the historian. The occupation of offenders was often only described in very general terms, with 'yeoman' being used in the sixteenth century and 'labourer' in the seventeenth as blanket terms of male offenders, notably those vagrants without a fixed occupation who committed so much of the property crime of the period. The place of residence given on the indictment for the offender was normally merely the place where the offence was perpetrated: when indictments can be checked against other sources, notably depositions, it becomes apparent that persons described as being domiciled in the parish where they allegedly committed a crime were, in fact, outsiders. Moreover, as Cockburn has demonstrated by comparing the details given on indictments with those provided by recognizances, even the date of the offence as given on an indictment could be suspect. These deficiencies make it very difficult for historians working on crime in the sixteenth and seventeenth century to provide statistics on the social background of offenders, on the proportion of offenders who were outsiders to the community where a crime was committed, or on the seasonality of crime (17).

As if this were not enough, there remains a further complication. As we have mentioned, many historians have acted on the assumption that the indictments they count, given the pre-police nature of the law enforcement system, were generated by the person offended against. For felony, again as we have noted, this was probably true. But 'crime' in this period included not just felonies, but a large number of regulative offences: typically, these included the suppression of unlicensed or disorderly alehouses, enforcing church attendance, enforcing that parishes carried out their statutory duty to repair the roads, or enforcing various economic regulations. Prosecutions of these offences, usually launched by parish officers (albeit frequently with encouragement from above) complicate any statistical study of 'crime' in early modern England. Thus between 1628 and 1632, in a 'control wave' set in motion by fears of social breakdown in a period of acute economic problems, 3,514 offences were indicted or presented at the Essex quarter sessions. These included 144 thefts and 48 assaults. Against these might be set 480 prosecutions for allowing roads or bridges to fall into decay, 229 for keeping disorderly alehouses, and 684 for failing to attend church (18). It could be argued that historians of crime should not ignore these offences, nor the social processes, many of them rather different from those operating in felony prosecutions, which lay behind them.

Despite all the difficulties and pitfalls, a number of historians have completed studies containing a large element of quantification on serious crime in early modern England. Most of these are concerned with developments in individual counties, and there now exist in print a number of books, essays and articles charting the crime statistics of various shires. We have studies of Essex between 1558 and 1603; Essex between 1559 and 1603, Sussex between 1559 and 1625, and Hertfordshire between 1573 and 1625; Cheshire between 1560 and 1709; Sussex between 1592 and 1640; Essex between 1620 and 1680; Surrey and Sussex between 1660 and 1800; and Staffordshire between 1755 and 1805 (19). To these might be added some basic counts for various years within this period for Middlesex, Devon, Cornwall, and Norfolk and Suffolk (20). Thus we possess at least patchy information on levels of indictment of serious crime over the two and a half centuries which followed the accession of Elizabeth I. What, briefly, are the trends which can be discerned from these exercises in quantification, and how useful have they been in illuminating our views of crime in the past, and the connection between crime and other phenomena?

Perhaps the clearest, and most unexpected, pattern comes through for the late sixteenth and seventeenth centuries. The situation in London is as yet unclear, although surviving evidence for Middlesex (where some areas were already more or less metropolitan) between 1550 and 1625 suggests a high crime rate and a particularly high proportion of property offences (21). Over the remainder of the country, evidence from the south east (especially the much studied county of Essex), Cheshire in the north west and Devon in the south west points to a national pattern. Levels of prosecution rose in the sixteenth century (as, of course, did population) to reach a peak in Cheshire and the Home Circuit in the 1620s. They fell back in the 1630s, then fell drastically in the 1640s when civil warfare disrupted the normal keeping of courts. Remarkably, after the wars were over, and even after the Restoration of 1660, prosecutions stayed at a low and, in the long term, fairly static level, possibly declining even further in the early eighteenth century. In Cheshire, Essex and Devon prosecution of felony in the first decade of the eighteenth century was running at approximately a tenth of what it had been in the bad years of the 1590s or 1620s (22). Counting prosecutions, therefore, reveals a massive drop in indicted crime in the middle of the seventeenth century. It also demonstrates a shift away from high levels of prosecution for property offences: any notion of a transition from a 'feudal' criminality based on violence to a 'modern' one based on property crimes cannot be sustained from sixteenth and seventeenth-century criminal statistics (23).

The situation in the eighteenth century is less clear cut. Beattie's figures show a drop in homicide cases between 1660 and 1800, with indictments

for Surrey falling from an average of 7.6 to 2.1 annually over that period, representing a drop in the homicide rate from roughly 6.2 to 0.9 per hundred thousand of population (24). Property offences showed a different pattern. In rural Surrey and Sussex these fell into what was a general pattern for provincial England, with low levels of prosecution in the early eighteenth century, then an upward trend which accelerated as 1800 approached. In urban Surrey (essentially Southwark, just south across the Thames from the City of London) levels of property crime were higher, three times higher than those obtaining in the rural parts of the county by 1800 (25). In Staffordshire, the trend in theft prosecutions between 1740 and 1805 was similarly upward, with prosecutions more than doubling on a moving average, and with a marked peak around 1800 (26). In the late eighteenth century, as in the period c. 1580-1630, demographic growth and the economic and social dislocation attendant upon it were pushing up the levels of prosecution of property offences.

Historians have, of course, attempted to plot criminal statistics against variables other than population growth. A number of these come readily to mind: the high levels of prosecution in the 1620s, for example, occurred in a decade which experienced not only those problems between king and parliament so familiar in the school textbooks, but also bad harvests, trade depressions, a severe outbreak of plague, war taxation, and the disorder and dislocation attendant upon the raising of troops and their subsequent movement through the countryside. Criminal statistics in other periods would be affected (albeit sometimes only on a local level) by these and other factors. But by far the most common variable which historians have attempted to set against criminal statistics is the cost of food and, more particularly, grain. J.S. Cockburn and myself have both attempted to compare grain prices and levels of indictment in the sixteenth and seventeenth centuries, while much more sophisticated work has been carried out by Hay on Staffordshire in the second half of the eighteenth century. Work on the earlier period does show a connection between high grain prices and property offences. In Essex, for example, the bad harvests of the late 1590s led to very high levels of prosecution of property offences, and further, if progressively smaller, peaks occurred when grain prices rose in 1631, 1647-50, 1661 and the late 1690s (27). Hay's work, based on much more elaborate indices of the cost of living of the lower orders, reveals that in times of dearth levels of non-capital theft and the less serious capital offences rose, evidence that people who would not normally have been involved in crime were forced into it as the pressure of dearth penetrated deeper into society (28).

Hay and Beattie's researches on the eighteenth century, however, has also revealed a less expected variable which affected crime statistics: the coming of war or peace. Beattie's work on Southwark and its surrounding

parishes shows, against a long-term rise, troughs in property offences in periods of warfare, notably 1739-48, 1756-63, 1776-82, and 1793-1815 (29). Warfare meant, quite simply, that large numbers of young adult males from the lower orders, the social group from which a disproportionate number of those accused of property offences were normally drawn, were removed into the armed services. The coming of peace, conversely, meant that property offences increased rapidly as soldiers and sailors were discharged in large numbers. This phenomenon could already be discerned in 1714-5, with the end of the War of the Spanish Succession, and between 1739 and 1815 it was one of the major factors affecting levels of prosecution of property offences. Hay's work, which shows how levels of prosecution were connected to both changes in the economic fortunes of the lower orders and the rhythms of peace and war, is an unusually successful, and soundly statistically based, case study in how crime statistics might be related to other variables.

As well as showing straightforward fluctuations of prosecutions over time, counting offences is an essential step in attempting to grasp the implications of the geographical spread of prosecutions within the area being studied. Perhaps the most detailed work of this type yet carried out is my own study of crime in Essex between 1620 and 1680. Here indictments from the assizes, quarter sessions and King's Bench (a total of 8,557) were broken down into subtotals for the county's twenty hundreds. These hundreds were then ranked according to the total of criminal prosecutions they experienced within the sub-periods 1635-9 and 1660-4, and then ranked according to estimates of population for 1638 and 1662, and estimates of relative poverty based on exemptions from taxation in the early 1660s. Changes in the relative contribution of the various hundreds to Essex's overall criminality were also charted over the period 1620-1680. The results of this exercise need not be discussed at length here: it should be noted, however, that some interesting findings did result. Thus poverty seemed to be closely related to levels of crime in Essex's weaving areas, but not in those parts of the county which, although experiencing high levels of poverty, were characterised by open field farming by small peasant proprietors. It was, moreover, possible to trace a shift over the sixty years in question in the geography of indicted crime in the county, with the centre of gravity of prosecution shifting from the weaving areas to those parts of Essex adjacent to London. Other counties have not been studied in comparable depth, but it seems likely that most regions would display analogous local variations (30). This leads to a general observation: whatever reservations we may have about the usefulness of counting overall crime figures as a reflection of actual criminality, this type of quantification does open the way to other, and possibly more meaningful, exercises.

It should also be noted that counting crime on a parish level can yield interesting results. Perhaps the best known work on crime in a local com-

munity is that completed by Keith Wrightson and David Levine in Terling in Essex. This village generated 306 prosecutions at the assizes and quarter sessions between 1560 and 1699, and 395 at the ecclesiastical courts between 1570 and 1639 (once more, we are reminded of the wide extent of the prosecution of petty criminality). On Wrightson and Levine's evidence, criminal prosecutions among Terling's villagers underwent important changes over the sixteenth and seventeenth centuries. There was a gradual shift away from attempts to settle interpersonal disputes through court action, to the prosecution of regulative offences: unlicensed alehousekeeping, failing to attend church, sexual immorality, swearing, taking in lodgers, building cottages without having four acres of land. These developments reflected shifts in village society. Briefly, Terling was experiencing, under the pressure of demographic growth, a sharpening of social stratification in which the parish's population became increasingly polarised, with a small group of prosperous yeoman farmers on the one hand and a large mass of poor agricultural labourers and village artisans on the other. In this social context, the courts provided the richer and more respectable villagers with a means of controlling the disorders of the poor (31). Thus quantification of petty offences in one community illuminated important developments in law and order issues which would have been largely invisible to the student of the prosecution of felony: we return to the basic premise that the usefulness of quantification for historians of crime is largely dependent on what they count and their reasons for doing so.

Further work by Wrightson has demonstrated how the quantification of petty crime on a local level can illuminate other aspects of law enforcement. Here we return to the question of control waves and of input from above. Wrightson has contrasted prosecutions at the Essex quarter sessions with those for Lancashire in the 1630s and 1640s (32). In Essex the economic crisis of 1629-31, and in Lancashire the attempt to construct a puritan ascendancy after 1646, were both marked by attempts by the local justices of the peace to stiffen the efficiency of parish officers in hopes of ensuring the more systematic prosecution of offenders. An important element in achieving this objective was the regulation of the appointment of local officers and the punishment of their faults. The overall result in both cases was the same: as Wrightson put it:

The slack in the whole apparatus of social regulation was vigorously drawn in. Years of peculiar concern with and harassment of the village officers corresponded exactly with those of towering peaks of regulative prosecutions (33).

We return to the contrast noted earlier, between the background to the prosecution of serious offences, most of them resulting from private prosecution by the victim, and the background to regulative offences, most of which were the result of what might be called, if a little anachronistically,

'police' action. Thus for early modern England the conclusion to be drawn from crime statistics will depend very much on how the researcher in question chooses to define crime.

This consideration is relevant to another exercise which historians have attempted, not always entirely convincingly: the construction of crime rates. The definition of crime is a basic issue here. A second is the problem of the reliability of population data which is, for most periods before 1800, very uncertain. A third, in many instances, is the smallness of the sample of offences: a random cluster of two murders in a village in an isolated decade can lead to the construction of a very high homicide rate. It is, indeed, work on homicide which illustrates some of the problems. Lawrence Stone, in an article published in 1983 (34), brought together evidence from twenty-odd samples of homicide in England between 1250 and 1800. Study of a graph setting this evidence out demonstrates alarming variations in homicide rates in the period c. 1200-1400. A number of samples give a rate of about 20 homicides per 100,000 of population, but the reader is also confronted by a Bristol sample for the thirteenth century of around 4 per 100,000, a London sample from the same century of around 12 per 100,000, another London sample from the fourteenth century of around 44 per 100,000, and another fourteenth-century sample, for Oxford, of nearly 110 per 100,000. By 1600 the variations between samples are smaller and by 1800, as Beattie's work indicates, something like reliable homicide rates can be calculated. But it is hard not to accept that the massive variations in medieval homicide rates are in large measure the produce of a combination of a small sample of prosecutions and unreliable population data. Similarly, J.S. Cockburn's attempts to calculate crime rates for Hertfordshire, Essex and Sussex over the period 1559-1625 are, as Cockburn accepts, capable of producing only very tentative results (35).

If rates are difficult to calculate with any certainty of their accuracy, counting prosecutions does at least allow us to define more clearly problems of prosecution and gender. As we have noted, indictments give only an unreliable guide to the occupation of offenders, although some use can be made of this information. They do, however, allow us to discover what proportion of offenders were male or female, and to raise further issues on the basis of such calculations. Thus Beattie discovered that in his evidence for prosecutions between 1660 and 1800 71.5 per cent of property offenders in urban Surrey, 85.7 per cent in rural Surrey, and 87 per cent in Sussex were males, and that women were less likely to carry out the more serious and daring crimes (36). These figures raise some interesting complexities. Certainly, the high proportion of male offenders in rural areas seems to have been representative of early modern rural society: we find, for example, that 85.5 per cent of thieves indicted at the Essex assizes and quarter sessions were males, and that women tended to be more represented in the

prosecution of less serious thefts (37). Such figures, it could be argued, point to a broader gendering of behaviour than the merely criminal. Moreover, the type of variation between urban and rural criminality which Beattie traces raises interesting problems of interpretation. Beattie, in fact, argues that the greater involvement of women in property offences in urban areas was a reflection of the more precarious, if freer, existence of women in the eighteenth-century metropolis (38). Another aspect of how counting offenders illustrates gender issues in crime comes from Hay, who discovered that women constituted some 16 per cent of property offenders in low price years, but 25 per cent in high price years, and argued that this showed how it was pressure of dearth which drove women to steal (39).

Our consideration of the uses of quantification in the history of crime leads to a final point: statistics may provide an uncertain basis for discussions of 'real' levels of crime, but they do allow some fairly concrete conclusions to be drawn about changes in punishment. For early modern England, the basic exercise of counting has yielded some intriguing results. When serious work began on the history of crime in the late 1960s one of the few things which researchers knew about the subject was that the century after 1688 saw a proliferation of statutes creating capital offences, a 'Bloody Code' which, logically, should have been accompanied by high levels of execution for those property offences which were the main concern of the statutes. Research on the period 1550-1800 has revealed that levels of execution were far higher in the period c.1580-1630 than in the eighteenth century, and that most of those executed for property offences in that century suffered for committing crimes that were already capital offences in the Elizabethan period (40). Once again, taking a broad chronological range of statistical evidence raises important questions, and is helping historians of the eighteenth century to clarify the questions they are asking about both capital punishment and the nature of the post-1688 criminal legislation.

In 1977 the late Tim Curtis remarked that:

only in recent years has the serious study of crime in the early modern period begun to establish itself. As might be expected, some confusion still surrounds the whole subject ... To melodramatize the situation, the student of crime in the past is rather in the position of a doctor attempting to deal with an epidemic when he does not know which of the people he sees has the disease, nor what the symptoms may be, nor all that much of anatomy (41).

Since 1977 a number of historians have set out to do something to clear the confusion, and our understanding of the problems involved in studying the history of crime, in early modern England as in other periods and places, has advanced considerably. Undoubtedly there is still much work to be done, but enough has been completed to allow us to delineate

most of the main lines in crime and punishment between 1550 and 1800. It should be emphasised that the activities of these historians has revealed that quantification is just one avenue through which our knowledge of crime in the past can be advanced. Nevertheless, quantification established itself as an essential exercise and, whatever the limitations on its usefulness, it was, if nothing else, a necessary initial step. The deeper questions which historians have posed about the history of crime could, for the most part, not have been formulated with any real precision until the quantifiers had cleared away the conceptual undergrowth.

In this article I hope to have spelt out some of the difficulties involved in quantifying crime in the period I know best, and also to have shown what quantification of crime in that period has revealed. In my own work on quantifying early modern crime, and when considering the writings of other historians, I have been encouraged by the thought that early modern criminal records were not written with the later historian in mind. Indeed, it is interesting to speculate on how an Elizabethan or Hanoverian assize clerk would have reacted to the news that the slips of parchment on which he wrote were to become the subject of intense debate among later historians. Whatever their other defects, these records were not being constructed for public consumption, to prove a point, or to edify later generations. Like the parish registers used by historical demographers, or the taxation records used to study social structure, criminal court records from the past have been put to uses which their creators would not have anticipated. As I hope to have demonstrated here, the uses which quantifying historians have made of them have been penetrating and productive, and have yielded fruitful and at times surprising results.

Notes

- (1) Quoted in Thorsten Sellin and Marvin E. Wolfgang (1969, p.7).
- (2) For a discussion of the origins of criminal statistics in England, see Clive Emsley (1987, pp.18-20).
- (3) Howard Zehr (1976); V.A.C. Gatrell (1980).
- (4) The most relevant of these, in order of their chronological starting point, are: Joel Samaha (1974); J.S. Cockburn (1977); J.A. Sharpe (1984), chapter 3, 'Measuring Crime, Measuring Punishment', Cynthia B. Herrup (1987); J.A. Sharpe (1983); J.M. Beattie (1986); Douglas Hay (1982).
- (5) J.J. Tobias (1967, p.21).
- (6) Quoted in J.J. Tobias (1967, p. 15).
- (7) Eric Monkkonen (1980, p.65).

- (8) See: Douglas Hay et al (1975); E.P. Thompson (1975).
- (9) For a general study of early modern crime which makes some use of concepts of modernization, see Michael R. Weisser (1979).
- (10) Douglas Hay (1982, p. 148).
- (11) J.A. Sharpe (1983, pp.116-7).
- (12) For a wider discussion of the background and alternatives to prosecution, see: J.A. Sharpe (1980); T.C. Curtis (1977a).
- (13) For the range of courts in early modern England, see: J.A. Sharpe (1984, pp.21-7).
- (14) Walter J. King (1982, p.699).
- (15) J.M. Beattie (1986, pp.19-20). For a work which lacks clarity in the presentation of quantification, see Joel Samaha (1974).
- (16) J.S. Cockburn (1975).
- (17) Again, Joel Samaha (1974) demonstrates some of the problems of resting too uncritically on the information given in indictments.
- (18) J.A. Sharpe (1984, pp.49-50).
- (19) References as n.4.
- (20) J.A. Sharpe (1984, p.55).
- (21) Ibid., loc. cit.
- (22) Ibid, pp.54-9.
- (23) Ibid, pp.59-60.
- (24) J.M. Beattie (1986, p. 108).
- (25) Ibid., pp.202, 214.
- (26) Douglas Hay (1982, p. 121).
- (27) J.A. Sharpe (1983, pp.198-201).
- (28) Douglas Hay (1982, pp.128-35).
- (29) J.M. Beattie (1985, pp.213-6).
- (30) J.A. Sharpe (1983, pp.198-200); for some preliminary comments on another region, see Cynthia B. Herrup (1987, pp.59-61).
- (31) Keith Wrightson and David Levine (1979), especially chapter 5, 'Conflict and Control: the Villagers and the Courts'.
- (32) Keith Wrightson (1980, pp.35-44, 300-7).
- (33) Ibid., p.38.
- (34) Lawrence Stone (1983).
- (35) J.S. Cockburn (1977, pp.52-56). An example of the problems involved is that Cockburn estimates the population of Essex in the late sixteenth century as 52,000, whereas Samaha puts it at 60,000 rising to 80,000 over the Elizabethan period: J.S. Cockburn (1977, p.53); Joel Samaha (1974, p.20).
- (36) J.M. Beattie (1986, pp.237-43).
- (37) J.A. Sharpe (1983, p.95).
- (38) J.M. Beattie (1986, pp.241-2): cf. Carol Z. Weiner (1975).
- (39) Douglas Hay (1982, p. 135).

- (40) J.A. Sharpe (1984, pp.63-6); statistics relating to capital punishment in London and Middlesex during the eighteenth century are given in Leon Radzinowicz (1948), chapter 5, 'Capital Statutes in Operation'.
(41) T.C. Curtis (1977b, p.671).

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